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**Changes to legislation:** Ancient Monuments and Archaeological Areas Act 1979, SCHEDULE 3 is up to date with all changes known to be in force on or before 22 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

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## SCHEDULES

### SCHEDULE 3

Section 64(1).

#### TRANSITIONAL PROVISIONS

- 1 (1) Where an interim preservation notice is in force with respect to any monument immediately before the commencement of this Act, sections 10(3)(a) and (c) and 12(1), (2)(b), (3)(b) and (4) of the <sup>M1</sup>Historic Buildings and Ancient Monuments Act 1953 shall continue to apply to the notice and monument respectively as if this Act had not been passed, unless and until the monument is included in the Schedule under section 1(3) of this Act.
- (2) So long as by virtue of sub-paragraph (1) above section 12(1) of the Historic Buildings and Ancient Monuments Act 1953 continues to apply after the commencement of this Act to any monument which is under guardianship by virtue of this Act, section 28 of this Act shall have effect in relation to that monument as if for the reference in subsection (2) of that section to a scheduled monument consent there were substituted a reference to the consent of the Secretary of State under section 12(1).

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#### Marginal Citations

**M1** 1953 c. 49.

- 2 (1) Subject to sub-paragraph (2) below, where a guardianship order made under section 12(5) of the <sup>M2</sup>Historic Buildings and Ancient Monuments Act 1953 is in force immediately before the commencement of this Act that order shall continue in force notwithstanding the repeal by this Act of section 12(5), and the provisions of this Act shall apply while the order is in force as if the Secretary of State had been constituted guardian of the monument by a deed not containing any restriction not contained in the order and executed by all the persons who, at the time when the order was made, were able by deed to constitute the Secretary of State guardian of the monument.
- (2) A guardianship order continued in force by this paragraph may be revoked at any time by the Secretary of State.

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#### Marginal Citations

**M2** 1953 c. 49.

- 3 (1) Where within the period of three months immediately preceding the commencement of this Act a person has given notice in accordance with section 6(2) of the <sup>M3</sup>Ancient Monuments Act 1931 of his intention to execute or permit to be executed any such work in relation to a monument as is there mentioned the notice shall have effect for the purposes of this Act as an application for scheduled monument consent for the execution of that work.

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(2) Where—

- (a) a monument becomes a scheduled monument under this Act; and
- (b) before it is included in the Schedule any person has applied for the consent of the Secretary of State for the execution of any works affecting the monument which would otherwise be prohibited by section 12(1) of the <sup>M4</sup>Historic Buildings and Ancient Monuments Act 1953 (consent required for certain works in relation to a monument subject to an interim preservation notice or preservation order);

then, in a case where the Secretary of State’s decision on the application has not been notified to the person in question before the monument is included in the Schedule, the application shall have effect for the purposes of this Act as an application for scheduled monument consent for the execution of those works.

- (3) The Secretary of State shall consider and determine any application for scheduled monument consent which has effect as such by virtue of this paragraph notwithstanding that any requirements of regulations made by virtue of paragraph 1 or any requirements of paragraph 2 of Schedule 1 to this Act are not satisfied in relation to that application.

**Marginal Citations**

**M3** 1931 c. 16.

**M4** 1953 c. 49.

- 4 (1) Subject to the following provisions of this paragraph, where a person has given notice as mentioned in paragraph 3(1) above with respect to any work more than three months before the commencement of this Act, the notice shall have effect for the purposes of this Act as if it were a scheduled monument consent for the execution of that work granted by the Secretary of State under section 2 of this Act on the date of the commencement of this Act (and it may be modified or revoked by the Secretary of State under section 4 of this Act accordingly).
- (2) This paragraph does not apply in any case where an interim preservation notice or a preservation order is in force with respect to the monument in question immediately before the commencement of this Act.
- (3) A scheduled monument consent which has effect as such by virtue of this paragraph shall not cease to have effect by virtue of section 4(1) of this Act if any of the work to which it relates has been executed or started before the commencement of this Act.
- 5 (1) Subject to sub-paragraph (2) below, where—
- (a) a monument becomes a scheduled monument under this Act; and
  - (b) before it is included in the Schedule the Secretary of State has granted consent for the execution of any works affecting the monument under section 12(1) of the <sup>M5</sup>Historic Buildings and Ancient Monuments Act 1953; that consent shall have effect for the purposes of this Act as if it were a scheduled monument consent for the execution of those works granted by the Secretary of State under section 2 of this Act on the date when the monument became a scheduled monument (and it may be modified or revoked by the Secretary of State under section 4 of this Act accordingly).

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- (2) A scheduled monument consent which has effect as such by virtue of this paragraph shall not cease to have effect by virtue of section 4(1) of this Act if any of the works to which it relates have been executed or started before the monument becomes a scheduled monument.

#### Marginal Citations

M5 1953 c. 49.

- 6 (1) [<sup>F1</sup>Section 13(2) of this Act shall not apply to any monument of which the Secretary of State or a local authority have been constituted guardians before the commencement of this Act, except where either—
- (a) the guardianship deed provided for control and management of the monument by the guardians; or
  - (b) the persons for the time being immediately affected by the operation of the guardianship deed have consented to the exercise of control and management of the monument by the guardians.]
- (2) Section 19(1) of this Act shall not apply to any monument of which the <sup>M6</sup>Secretary of State or a local authority had been constituted guardians before 15th August 1913 (being the date of commencement of the Ancient Monuments Consolidation and Amendment Act 1913), except where either—
- (a) the guardianship deed provided for public access to the monument; or
  - (b) the persons for the time being immediately affected by the operation of the guardianship deed have consented to the public having access to the monument.
- (3) Where any land adjoining or adjacent to a monument (in addition to its site) was acquired or taken into guardianship before the commencement of this Act under any enactment repealed by this Act, it shall be regarded for the purposes of this Act as having been acquired or taken into guardianship for a purpose relating to that monument by virtue of section 15 of this Act.

#### Textual Amendments

F1 Sch. 3 para. 6(1) repealed (S.) (30.6.2011) by [Historic Environment \(Amendment\) \(Scotland\) Act 2011 \(asp 3\)](#), ss. 7(5), 33(2); S.S.I. 2011/174, art. 2, Sch.

#### Marginal Citations

M6 1913 c. 32.

- 7 Notwithstanding the repeal by this Act of the <sup>M7</sup>Field Monuments Act 1972, the provisions of that Act shall continue to apply in relation to any acknowledgement payment agreement within the meaning of that Act which is in force immediately before the commencement of this Act.

#### Marginal Citations

M7 1972 c. 43.

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- 8 Any reference in any document (including an enactment) to an enactment repealed by this Act shall be construed as or (as the case may be) as including a reference to the corresponding enactment in this Act.
- 9 Nothing in the preceding provisions of this Schedule shall be construed as prejudicing the effect of section 16 or 17 of the <sup>M8</sup>Interpretation Act 1978 (effect of repeals).

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**Marginal Citations**

**M8** 1978 c. 30.

- 10 In this Schedule—  
“interim preservation notice” means a notice served under section 10(1) of the <sup>M9</sup>Historic Buildings and Ancient Monuments Act 1953; and  
“preservation order” means an order made under section 11(1) of that Act.

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**Marginal Citations**

**M9** 1953 c. 49.

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 1(3A) inserted by [2023 asc 3 Sch. 13 para. 20\(b\)](#)
- s. 1AA-1AE omitted by [2023 asc 3 Sch. 13 para. 21](#)
- s. 7(4A) inserted by [2016 anaw 4 s. 10\(2\)](#)
- s. 33(1A) inserted by [2023 asc 3 Sch. 13 para. 35\(a\)](#)